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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/590,173

08/18/2006

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10/16/2008

EXAMINER

DEMEREE, CHRISTOPHER R

ART UNIT

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3782

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/590,173	Applicant(s) GHINI ET AL.	
	Examiner CHRISTOPHER DEMEREE	Art Unit 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/18/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities: Line 6 of the claim contains a minor typographical error between the words "end" and "face". Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 7, 14, 15 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Regarding claim 7, it cannot be readily ascertained by the examiner what is meant by, "the preferential fold line (25) of the lateral panel (10, 11, 30) *coincides* with the fold line (5) of the flat blank..." Examiner notes that fold line 25 and fold line 5 are on different panels of the flat blank and extend in perpendicular directions to one another; therefore, they do not coincide with one another. For purposes of examining the claims on the merits examiner considers "coinciding" to mean that the two fold lines are perpendicular.

5. Claims 14, 15 and 20 recite the limitation "A method of ... as in Claim 1" in the preamble of the claims. There is insufficient antecedent basis for this limitation in the claims since Claim 1 is drawn to a folded blank and not a method. For purposes of

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examining the claim on the merits examiner considers “a method of preparing” to be “a carton formed from”.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Focke et al. (US 6343691 B1; hereinafter Focke).

Regarding claims 1, 6-8, 10, 11, 14-17 and 20, Focke teaches a hinge lid pack for cigarettes and the blank for making obtainable from a flat die cut blank (see Fig. 3) presenting a first panel (14) and a second panel (15) coinciding respectively with the front and the back of the packet (see Fig. 1), pairs of lateral panels (24 and 25) hingedly attached respectively to the first and second panels and establishing the flanks of the packet, and end panels (16 and 22) establishing the top end face (see Fig. 2) and the bottom end face (see Fig. 6) of the packet, characterized in that the flat die cut blank is bent double along at least one fold line (43) to create a first part (any part of the blank below fold 43) and a second part (any part of the blank below fold 43) flattened one against the other in such a manner that the folded blank presents a collapsed configuration initially; in that each of the lateral panels associated with one of the two parts (associated with 25) of the blank presents a preferential fold line (34) delimiting a first inner lateral portion (36) and a second outer lateral portion, positioned such that the

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second outer portions can be bent along the preferential fold line and at least one portion (outer lateral portion of 25) of one part offered to the corresponding lateral panel of the other part (24) so that when the folded blank is erected to form the packet, the corresponding lateral panel will overlap and cover the preferential fold line (25 and 24 overlap; see Fig. 6).

Regarding claims 2 and 3, Focke teaches a hinge lid pack for cigarettes and the blank for making wherein the second outer portion of a lateral panel presented by one part of the blank, offered to the panel that will ultimately overlap the preferential fold line, is fastened permanently to the opposite part of the blank (Col 2 lines 52-58).

Regarding claim 4, Focke teaches a hinge lid pack for cigarettes and the blank for making wherein the preferential fold line coincides with an axis of symmetry of the lateral panel (examiner considers fold 34 to provide a vertical line of symmetry between panels 25 and 36).

Regarding claim 5, Focke teaches a hinge lid pack for cigarettes and the blank for making wherein the second outer portions of each lateral portion are substantially flattened against the respective first inner portions when the blank is in the initially collapsed configuration. Examiner notes that portions of the outer panel 25 are capable of being folded flat against panel 36 via fold line 34.

Regarding claim 9, Focke teaches a hinge lid pack for cigarettes and the blank for making wherein the fold line (43) is applied to an end panel (22) hinged on opposite sides of the selfsame fold line to the first panel (14; below fold 43) and the second panel (15; above fold 43).

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Regarding claims 12, 13, 18 and 19, Focke teaches a hinge lid pack for cigarettes and the blank for making comprising a plurality of first crease lines (35, 38 and 39) functioning as hinges between the lateral panels (24 and 36) and the first and second panels (14 and 15).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Draghetti et al (US 6079556 A); Cahill et al. (US D503827 S) and Focke et al. (US 6591982 B2). These references teach cigarette packages similar to that of the instant application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER DEMEREE whose telephone number is (571)270-1982. The examiner can normally be reached on Mon-Fri, 8:00 AM-5:00PM, Alt Fri, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher Demeree/
Examiner, Art Unit 3782

/Nathan J. Newhouse/
Supervisory Patent Examiner, Art Unit 3782